

To: Mike Mender, Mayor's Assistant

From: *RAC*
Bob Curtis, City Clerk

Date: October 2, 2019

RE: **Proposed Resolution for Tuesday, October 8, 2019 Common Council
Agenda – Scheduling of a Public Hearing on Proposed Local Law No. 6-
2019.**

Mike, per Mayor Daniel Hall, please include the following proposed resolution for the Tuesday, October 8, 2019 Common Council Agenda:

Resolution to schedule a Public Hearing on Proposed Local Law No. 6-2019 (A Local Law to Amend the Code of the City of Glens Falls by Adding a New Chapter, Chapter 87, Demonstrations) for 7:25 p.m. on Tuesday, October 22, 2019 in the Common Council Chambers and Authorizing the City Clerk to make Public Notice Thereof.

Enclosed is a copy of the proposed Local Law and Public Hearing Notice.

Thank you.

Encl.

Cc: Chief Anthony Lydon, GFPD
Assistant Chief Joseph Boisclair, GFPD
Chief James Schrammel, GFFD

RESOLUTION NO. -2019 GLENS FALLS COMMON COUNCIL

WHEREAS, the Common Council of the City of Glens Falls recognizes that certain adjustments to its regulations must be made from time to time in order to preserve the public health, safety and welfare of its residents, and

WHEREAS, the right to peacefully assemble and demonstrate is protected by the First Amendment of the United States Constitution; however, these constitutional privileges are not unlimited as it pertains to maintaining public safety. The City of Glens Falls may impose reasonable time, place and manner restrictions,

NOW, THEREFORE, the Common Council of the City of Glens Falls does hereby (i) accept and approve the content and form of the Local Law attached hereto as Exhibit "A", (ii) schedule a **Public Hearing on Tuesday, October 22, 2019 at 7:25 p.m. in the Common Council Chambers, 3rd floor, City Hall, 42 Ridge, Glens Falls, NY 12801** with respect to such proposed Local Law prior to the confirmation of the final passage of such Local Law at the next meeting of the Common Council or the next regularly scheduled meeting of the Common Council held as soon after publication has herein directed as the Charter of the City of Glens Falls or the laws of the State of New York will allow and (iii) authorize the Clerk of the City of Glens Falls to take all actions necessary to publish notice of the Local Law utilizing the form of notice attached hereto as Exhibit "B".

LOCAL LAW NO. 6-2019

A LOCAL LAW TO AMEND THE CODE OF THE CITY OF GLENS FALLS BY ADDING A NEW CHAPTER, CHAPTER 87, DEMONSTRATIONS.

Be it enacted by the City of Glens Falls of the County of Warren as follows:

The Code of the City of Glens Falls is hereby amended by adding a new Chapter, Chapter 87, Demonstrations.

ARTICLE 1

§ 87-1 Legislative findings; intent and purpose; authority.

- A. The right to peacefully assemble and demonstrate is afforded to all persons and is protected by the First Amendment of the United States Constitution and the New York State Constitution, Article I, Section 8 and 9. These constitutional privileges are not, however, unlimited as it pertains to public safety.
- B. The City of Glens Falls is authorized to impose reasonable time, place and manner restrictions on demonstrations.
- C. This chapter shall be known and may be cited as "Chapter 87, Demonstrations."

§ 87-2 Compliance with other provisions; definitions; construal of provisions.

- A. Demonstration. For the purpose of this chapter, a "demonstration" is a display, by 25 or more persons, in a public place that is intended to attract public attention.
- B. No person, corporation, partnership or other entity shall hold or cause to be held any demonstration without first filing a declaration where required by this chapter.
- C. The following definitions shall apply to this chapter:
 - BANNER** Any sign, as defined in the City Code, hung above a street, from a building, bridge structure or a vehicle or towed by a vehicle, including but not limited to an aircraft, watercraft or trailer.
 - CITY** The City of Glens Falls, New York.
 - CITY CLERK** The City Clerk of the City of Glens Falls, New York.
 - PARADE** Any procession of any kind on a public street in the City of Glens Falls that is intended to attract public attention and that does not comply with normal traffic regulations and control.
 - PUBLIC PLACE** Any place to which the public has unrestricted access, but "public place" shall not mean the interior floor space or any building or any space covered by part of a building's permanent roof.
 - SIGNS** Any display, as defined in the City Code.
 - SPECIAL EVENT** Any event, occasion or celebration open to the public and held in or upon any public right-of-way, public street, public sidewalk, public park or other public place or conducted in such manner as to significantly impede public access to any public right-of-way, public street, public sidewalk, public park or other public place.

- D. Nothing in this chapter shall be construed so as to limit any of the provisions of the New York State Building and Fire Codes.

§87-3 Prohibited items or activities

- A. The following items or activities are prohibited:
1. Alcoholic beverages. Alcoholic beverages in any open container cannot be carried or possessed by participants of the demonstration.
 2. Banners are prohibited.
 3. Explosives, fireworks or pyrotechnics. No person shall carry or possess any kind or mixture of explosives, fireworks or pyrotechnics.
 4. Facial coverings. Facial coverings, regardless of the material of which they are made, are not permitted to cover the face from the chin area to the forehead.
 5. Fencing material. Materials commonly used for fencing on property, or a safety zone including barricades and which could be used to obstruct governmental administration shall not be carried or possessed unless placed at a demonstration site by governmental agencies to control demonstration participants and continue to allow free access to sidewalks or other public places as allowed by statute, law, code or ordinance. Fencing and barricade shall not be used to hang signs or other materials. Nothing shall be used to impede visibility on either side of the barriers.
 6. Flammable or combustible liquids or gases.
 7. Gas masks. Gas masks or similar devices designed to filter air breathed and protect the respiratory tract and face against the irritating, noxious or poisonous gases cannot be carried, possessed or worn.
 8. Handcuffs. Handcuffs or similar-type restraining devices cannot be carried, possessed or worn.
 9. Injury, physical. The conduct of the demonstration is not reasonably likely to cause physical injury to persons or property.
 10. Interference with emergency services. The demonstration will not unduly interfere with proper fire and police protection or emergency services.
 11. Obscene material. No person shall display, carry or possess any obscene material as defined by § 235.20 of the NYS Penal Law.
 12. Noxious materials. No person shall use, carry or possess any noxious material of any kind or strength while participating in a demonstration.
 13. Plastic or metal pipe. It is unlawful to carry or possess any length of plastic pipe more than ¼ inch thick. Any metal pipe, metal angle iron, box steel, flat steel or similar plastic material is not permitted.
 14. Projectile launchers. Projectile launchers or other devices commonly used for the purpose of launching, hurling, or throwing any object, liquid, material or substance cannot be carried or possessed.
 15. Sidewalks (blocking). No person or group of persons shall block any lawful use of a public sidewalk or any ingress to or egress from any building by standing within 15 feet of said doorway or entrance or any driveway to any building.

16. Signs. No sign or combination of signs shall render impassable any public way or any ingress to or egress from any public way, or render passage to, from or across a public way unreasonably difficult or hazardous. Posters, plaques or notices mounted on a support or hand-held, constructed solely of cloth, paper, plastic or cardboard material no greater than ¼ inch thick are permitted. Signs must be of such size and construction as to be safely carried and displayed.
17. Sirens or air horns. No person shall use, carry or possess any hand carried or vehicle-mounted siren or air horn.
18. Splinter groups. No person or small group is permitted to break off the main group to stage smaller demonstrations or picketing unless a new and separate declaration is first obtained.
19. Strong acid or base chemicals in solid, liquid or gas. No persons shall use, carry or possess any acidic or basic chemical regardless of its physical state.
20. Traffic (blocking). No person shall block or otherwise interfere with highway, road or rail traffic to include ingress to or egress from a building or onto property.
21. Wood or wood products. No person shall carry or possess any length of lumber, wood or wood lath unless the wood object is blunted at both ends, is ¼ inch or less in thickness and two inches or less in width or, if not generally rectangular in shape, does not exceed ¾ inch at its thickest.
22. The use of drones for any activity referenced in this chapter is prohibited.

§87-4. Restricted use items or activities

The following items or activities have restricted use:

- A. Flyovers. Flyovers and aircraft trailing banners are not permitted unless requested for in the filing of the declaration in advance. A copy of the FAA authorization permit is required to be filed with the declaration.
- B. Firearms. Firearm use or carry, real or replica, whether for ceremonial use as in a color guard or not, must be approved in advance by the Police Department.
- C. Sound-producing or amplifying devices. The use of any sound producing or amplifying devices is permitted if the sound cannot be amplified so as to be heard at a distance of more than 250 feet from the perimeter of the demonstration.
- D. Electricity. Electrical connections are not publicly available from the City. Electrical connections and electrical generators from private property are permitted, provided such connections shall have been inspected by a certified electrical inspector as to safety and compliance with the National Electrical Code. A copy of the inspection shall be filed with the Code Enforcement Officer prior to said use.

§87-5. Application

- A. Application for a demonstration declaration shall be made to the City Clerk on the forms provided by the City Clerk. Application must be filed with the City Clerk's Office no less than 10 days prior to the scheduled date of such demonstration.

- B. Weekly or monthly declarations for recurring public demonstrations will be issued by the City Clerk. Such declaration shall include a schedule for each day of the demonstration, together with any other information the City Clerk may deem necessary. All such declarations shall expire at the end of the calendar year in which they are granted.
- C. For any event that will attract 5,000 or more persons, the applicant must obtain a permit from the NYS Department of Health and include it with the declaration. A safety plan, as required by the Department of State, must also be included with the application.

§87-6. Fees

There shall be no fee charged for a demonstration declaration.

§87-7. Responsibility for cleanup

The Department of Public Works Superintendent shall have the authority, in situations where it is determined that the proposed demonstration is of such magnitude or character that it will generate an excessive or extraordinary amount of debris upon the public ways, to require an agreement from the applicant stating that the applicant shall be responsible for the costs of cleanup of the public ways after the demonstration. The superintendent may enter into an agreement with the applicant as may be necessary for this purpose.

§87-8. Issuance; Alterations

If the City Clerk finds that all applicable provisions of this chapter have been complied with or will be complied with by the applicant, a declaration shall be issued to hold a demonstration and shall be conditional upon such reasonable limitations and requirements as may be deemed necessary for the protection of the public health, safety and welfare.

§87-9. Notice to officials

Immediately upon the application for a demonstration declaration, the City Clerk shall send a copy of the declaration to the following:

- A. Mayor
- B. Police Chief
- C. Fire Chief
- D. City Attorney
- E. Public Works Superintendent

§87-10. Contents

Each demonstration declaration shall state the following information:

- A. The starting and ending times.
- B. Location of the demonstration, including the portions of the streets to be traversed.
- C. The name of the responsible party and telephone number.
- D. Such other information as the City Clerk shall find necessary to the enforcement of this chapter.

§87-11. Duties of the declaration holder

- A. The holder of the declaration hereunder shall comply with all directions and conditions and with all applicable laws and ordinances.
- B. Possession of declaration. The demonstration chairperson or the person heading or leading such activity shall be present and carry the demonstration declaration upon his/her person during the conduct of such demonstration.

§87-12. Penalties for offenses; when effective.

- A. Any person or other legal entity who violates any of the provisions of this chapter shall be subject to the penalties set forth in Chapter 1, General Provisions, Article 1-10 Penalties for tampering with Code and 1-11 Changes in previously adopted legislation, of this code. The Police Department shall have the authority to enforce the provisions of this chapter and to issue appearance tickets for violations thereof.
- B. This chapter shall take effect upon local law filing with the NYS Secretary of State.

EXHIBIT "B"
FORM OF NOTICE

PLEASE TAKE NOTICE that the Glens Falls Common Council will hold a Public Hearing on Tuesday, October 22, 2019 at 7:25 p.m. in the Common Council Chambers, City Hall, 42 Ridge Street, Glens Falls, County of Warren, State of New York, concerning a Local Law described below:

Any resident of the City of Glens Falls is entitled to be heard upon this Proposed Local Law at such Public Hearing. Copies of said Proposed Local Law are available for review at the City Clerk's Office, City Hall, 42 Ridge Street, Glens Falls, New York. The purpose of the Public Hearing is to confirm passage of a Local Law to amend the Code of the City of Glens Falls by adding a new Chapter, Chapter 87, Demonstrations.

Robert A. Curtis
City Clerk
City of Glens Falls
42 Ridge Street
Glens Falls, NY 12801